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8
9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11 JENNIFER PURCELL, Individually
12 and On Behalf of All Others Similarly
13 Situated,

14 Plaintiff,

15 v.

16 SPOKEO, INC. and DOE
17 DEFENDANTS 1-20,

18 Defendants.

Case No.: 2:11-CV-06003-ODW-AGR

CLASS ACTION

**SECOND AMENDED CLASS
ACTION COMPLAINT FOR
VIOLATION OF THE FAIR
CREDIT REPORTING ACT, 15
U.S.C. §1681 *et seq.*; UNJUST
ENRICHMENT; THE UNIFORM
DECEPTIVE TRADE PRACTICES
ACT; 815 ILCS §510/1; AND
DECLARATORY RELIEF**

JURY TRIAL DEMANDED

19
20
21 Plaintiff, Jennifer Purcell, individually and on behalf of all others similarly
22 situated, upon both personal knowledge and information and belief, and following
23 investigation by counsel, allege the following against Defendant, Spokeo, Inc.
24 ("Spokeo" or "Defendant") and Doe Defendants 1-20:

25 **INTRODUCTION**

26 1. This case seeks relief for Plaintiff and a Class of similarly situated
27 consumers whose personal information has been gathered, assembled, and evaluated
28

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CENTRAL DIST. OF CALIF.
LOS ANGELES

1 by Spokeo for the purpose of marketing, publishing, distributing, and/or selling such
2 information to third-parties.

3 2. Unbeknownst to Plaintiff and other Class members at relevant times,
4 Spokeo assembles, evaluates, markets, publishes, distributes, and/or sells access to
5 Plaintiff and other Class members' personal information through its website,
6 Spokeo.com, and continues to do so. Yet, information listed on Spokeo's website
7 about Plaintiff and other Class members is false and incorrect.

8 3. Plaintiff seeks declaratory and injunctive relief, restitution and damages
9 for herself and other Class members who have had their personal information
10 assembled, evaluated, marketed, published, distributed, and/or sold to third-parties, in
11 violation of the Fair Credit Reporting Act, 15 U.S.C. §1684 *et seq.* ("FCRA"), the
12 law of unjust enrichment, and the Illinois Uniform Deceptive Trade Practices Act,
13 815 ILCS §510/1 ("IDTPA").

14 **JURISDICTION, VENUE AND PARTIES**

15 4. Plaintiff, Jennifer Purcell, is an individual and a citizen of the State of
16 Illinois, where Plaintiff resides and maintains her personal and business life and
17 career.

18 5. Spokeo has its principal place of business in and is a citizen of the State
19 of California.

20 6. Doe Defendants 1-20 are officers, principals, agents, managers, and
21 subsidiaries of Defendant, and/or other persons or entities sued by fictitious names
22 who authorized, directed or otherwise exerted operational control over, or who
23 assisted to perpetrate, the unlawful conduct alleged herein, or who were or are likely
24 to be unjustly enriched by the Spokeo's alleged misconduct, as set forth below. The
25 allegations herein with respect to Spokeo are hereby expressly alleged by reference
26 against Does 1-20. If appropriate, and/or pursuant to discovery Plaintiff shall amend
27 the Complaint to name and seek relief against Does 1-20.

28 7. The Court has original jurisdiction, *inter alia*, per 28 U.S.C. § 1331, and

1 supplemental jurisdiction over state law claims pursuant to 28 U.S.C. § 1367, which
2 arise out of the same nucleus of operative facts as Plaintiff's causes of action pursuant
3 to federal law.

4 8. Venue is proper before the Court under 28 U.S.C. § 1391(b)(2) because
5 a substantial part of the events or omissions at issue occurred in this judicial District.
6 Alternatively, venue is proper before the Court under 28 U.S.C. § 1391(b)(1) and 28
7 U.S.C. § 1391(c) because Spokeo resides in this judicial District and is subject to
8 personal jurisdiction in this judicial District.

9 **FACTUAL ALLEGATIONS**

10 9. Spokeo collects and assembles personal information about United States
11 residents and then evaluates, markets, publishes, distributes, and/or sells the
12 information that it gathers to employers, consumers and virtually anyone else.
13 Plaintiff and other Class members' personal information, as described below, is
14 currently viewable on Spokeo's website, Spokeo.com (herein, their "profiles,"
15 "Spokeo profiles," "consumer reports," or "reports" as collected and assembled by
16 Spokeo) and contains information that is false and incorrect.

17 10. On its website, Spokeo has published at least one personal information
18 profile for Plaintiff and each member of the Class. Using Spokeo.com, consumers,
19 employers and virtually anyone can view Spokeo personal information or reports
20 about Plaintiff and the Class, for free, and in substantial part by choosing for-pay
21 options.

22 11. Spokeo purportedly collects this personal information about Plaintiff and
23 other Class members from dozens of sources but does not specify the exact source of
24 any information posted on Plaintiff or other Class members' profiles.

25 12. Spokeo's profiles provide information about consumers such as their
26 address, phone number, sex, relationship status, a street view image of the
27 consumer's property, and income level or home or property value which purports to
28 be an estimated home value and/or wealth estimate.

1 13. This information is available to employers, consumers, and third-parties,
2 and Spokeo does not include and/or has not included, with profile displays of
3 personal information of Plaintiff and the Class, proper disclaimers regarding the
4 accuracy of such information, the proper or improper use of such information by
5 third-parties, or other relevant FCRA disclosures.

6 14. Spokeo as part of a membership subscription, invites viewers to
7 purchase and access in depth profiles, about Plaintiff and other members of the Class,
8 which purport to include a variety of personal information, including, for example,
9 level of education, credit and wealth estimates, “economic health,” religious and
10 political affiliations, date of birth, and home purchase price and date. Spokeo itself
11 explains that “specific ‘information about mortgage, income, and investments’... are
12 offered as part of the business premium product.”
13 <http://www.spokeo.com/blog/category/spokeo-in-the-news/>.

14 15. Spokeo posts personal information on consumer profiles under subject
15 headings including but not limited to: “Basic Profile,” “Household,” “Photos &
16 Profiles,” “Wealth,” “Lifestyle & Interests,” and “Neighborhood.” Plaintiff’s profile
17 information available for purchase on Spokeo.com makes statements about her
18 economic health and wealth level.

19 16. While much of the information used to form these profiles comes from
20 public records, Spokeo collects this personal information from sources, many of
21 which are difficult to find, using processes and techniques that are unavailable to
22 consumers, and creates a unique profile which is far different, and far more than a
23 “white pages.” In fact, Spokeo reorganizes data obtained from other sources, makes
24 evaluations and conclusions about Plaintiff and other Class members not included in
25 the original source, and develops original content.

26 17. At relevant times, Spokeo has also assembled, evaluated, marketed,
27 published, distributed and/or sold, via its website, individual profiles (including
28 profiles for a fee) containing inaccurate information about Plaintiff and other

1 members of the Class, inclusive of their purported economic status, income, and
2 property ownership or the value thereof. For example, Plaintiff's Spokeo profile lists
3 an incorrect address, incorrect phone number, and incorrect projected home value or
4 wealth assessment. During relevant times, moreover, inaccuracies are and/or were
5 included on Plaintiff's paid Spokeo profile including for example stating that she is
6 fifty years old, has children, is married, is a Republican, is only college educated and
7 is a Protestant; in addition to other inaccuracies, none of these statements is true.

8 18. Despite a hollow, inadequate disclaimer by Spokeo (which Spokeo only
9 displays after a Spokeo.com user sees a consumer's inaccurate profile information, or
10 which is not displayed when or before Spokeo permits third-party access to profile
11 content), Spokeo at relevant times has marketed, encouraged and/or expected that
12 Plaintiff and other Class members profiles posted on Spokeo's website are used by
13 third-parties for employment purposes. Spokeo President and co-founder Harrison
14 Tang himself admits that "his site streamlines the process of finding information
15 about prospective employees for potential employers and job recruiters." "FTC To
16 Probe Spokeo Data Broker Over Abuse of Privacy,"
17 [http://www.networkworld.com/community/blog/ftc-probe-spokeo-data-broker-over-](http://www.networkworld.com/community/blog/ftc-probe-spokeo-data-broker-over-abuse-priv)
18 [abuse-priv](http://www.networkworld.com/community/blog/ftc-probe-spokeo-data-broker-over-abuse-priv) (last visited July 29, 2010). In fact, during the relevant time period,
19 Spokeo awarded a "special gift" to a Spokeo member who used Spokeo's website "to
20 look up people who are potential employers/employees." *News Flash*,
21 <http://www.spokeo.com/blog/category/announcements> (last visited July 16, 2010).

22 19. Spokeo "has also marketed itself as a service for conducting background
23 checks to aid law enforcement agencies or HR recruiters."
24 [http://www.networkworld.com/community/blog/ftc-probe-spokeo-data-broker-over-](http://www.networkworld.com/community/blog/ftc-probe-spokeo-data-broker-over-abuse-priv)
25 [abuse-priv](http://www.networkworld.com/community/blog/ftc-probe-spokeo-data-broker-over-abuse-priv) (last visited July 29, 2010).

26 20. Spokeo knows and/or reasonably should expect that its reports are used
27 for employment-related, collection or other purposes governed by the FCRA.

28 ///

1 ***Consumers Have Been Harmed***

2 21. Pursuant to Spokeo's ongoing business practice, it did not inform
3 Plaintiff and other Class members when it assembled, evaluated, marketed, published,
4 distributed and/or sold Plaintiff and other Class member's personal information.

5 22. Plaintiff and other consumers have had false or misleading information
6 published, provided and/or sold by Spokeo as profiles or reports purporting to
7 provide their above-described personal information, including to third-parties who
8 have not agreed to or seen any FCRA disclaimers.

9 23. Spokeo President and co-founder admits that it is possible to reduce the
10 number of inaccuracies on Spokeo.com. He claims "[t]here are ways for us to
11 improve information inaccuracies. If you aggregate more pulled sources, you can do
12 an algorithm to improve the inaccuracies." [http://newsblogs.chicagotribune.com/the-](http://newsblogs.chicagotribune.com/the-problem-solver/2010/05/should-i-be-worried-about-spokeocom.html)
13 [problem-solver/2010/05/should-i-be-worried-about-spokeocom.html](http://newsblogs.chicagotribune.com/the-problem-solver/2010/05/should-i-be-worried-about-spokeocom.html) (last visited July
14 29, 2010). Yet, Spokeo continues to market, publish, distribute, and/or sell inaccurate
15 information about Plaintiff and other Class members through its website.

16 24. This inaccurate information about Plaintiff and other Class members,
17 marketed, published, distributed and/or sold on Spokeo.com, is accessed widely and
18 often – estimates have tracked traffic to Spokeo's website at up to more than 100,000
19 times per day, and alternatively almost 500,000 times per day.
20 <http://www.dnscoop.com/> (last visited July 29, 2010);
21 <http://www.freewebsitereport.org/www.spokeo.com> (last visited August 15, 2011).
22 In a single 30-day snapshot in 2010 alone, Spokeo.com had approximately 5,402,000
23 visits, <http://www.trafficestimate.com/spokeo.com> (last visited July 29, 2010), which
24 compares similarly with more recent estimates. One recent summary of activity on
25 Spokeo.com shows 16.09 million page views in a single month. *Id.*

26 25. Approximately 736 other websites have links to Spokeo.com which
27 makes Plaintiff and other Class members' inaccurate profiles easily accessible to
28 scores of viewers. *Id.* Spokeo also employs and is seeking to expand a network of

1 sales and marketing affiliates to help it advertise, online, and recover revenues from,
2 the marketing and sale of profiles including inaccurate personal information about
3 Plaintiff and other members of the Class.

4 26. Defendant allows the many viewers of its website to see Plaintiff and
5 other Class members' profiles without obtaining any certification from said third-
6 parties stating the purposes for which these third-parties are purchasing the profiles.

7 27. For a consumer to request removal of his or her profile from
8 Spokeo.com, Spokeo requires the consumer to furnish his or her email address and/or
9 additional information to Spokeo, and consumers have complained that the removal
10 process was unsuccessful, arduous, and required the transmittal of additional personal
11 information to Spokeo, or resulted in the revision, rather than the removal of one's
12 profile so as to *include* the personal information provided by the consumer to Spokeo
13 solely for purposes of *removing* the profile from Spokeo.com.
14 [http://yellowstaressentials.wordpress.com/2010/03/30/privacy-alert-spokeo-com-has-](http://yellowstaressentials.wordpress.com/2010/03/30/privacy-alert-spokeo-com-has-your-information/)
15 [your-information/](http://yellowstaressentials.wordpress.com/2010/03/30/privacy-alert-spokeo-com-has-your-information/) (last visited September 2, 2010);
16 <http://www.facebook.com/pages/NO-MORE-SPOKEO/113159098694287> (last
17 visited September 2, 2010). For example, after a consumer attempts to remove his or
18 her profile, "Spokeo now knows which 'John Smith' is attached to
19 john.smith@randomemail.com," and Spokeo then attaches this additional information
20 to a revised profile. *Id.*

21 28. Many consumers, including Plaintiff and the Class, unknowingly had
22 their profiles listed on Spokeo.com and were not given the opportunity to
23 meaningfully consent to Spokeo's marketing, publication and/or sale of their personal
24 information, including inaccurate, misleading and false information.

25 29. Spokeo's website offers, for the world to view or buy, a host of false,
26 misleading and inaccurate information about Plaintiff, including, for example: during
27 relevant times Plaintiff's published Spokeo.com profile seemingly purports or
28 purported that she is fifty years old, has children, is married, is a Republican, is only

1 college educated and is a Protestant, which, in addition to other inaccuracies, are not
2 true.

3 30. Moreover, Spokeo does not allow Plaintiff or other Class members to
4 view their own complete respective profiles (*see* ¶¶ 14-17) or to verify the accuracy
5 of information contained in their profiles on Spokeo.com without paying a
6 subscription fee. Spokeo has required, and as a practice continues to require, Plaintiff
7 and other members of the Class to purchase their own Spokeo profiles in order to
8 view all information that Spokeo assembles, evaluates, markets, publishes, distributes
9 and/or sells about them.

10 31. Plaintiff requested, in or around April 13, 2011 for example, a copy of
11 all files, reports or profiles that Spokeo maintains about her, a list of the sources used
12 to create such information, and the identities of any recipients of her profiles. Spokeo
13 did not oblige or honor this request, and indeed, does not honor such requests, and
14 does not offer or make available such information to consumers (except that it allows
15 consumers to pay to see their own profiles).

16 32. Through the actions described above, Spokeo has damaged and is likely
17 to damage consumers, including Plaintiff and other Class members.

18 33. Due to Spokeo's herein-described conduct, Plaintiff and the Class are
19 entitled to commensurate declaratory and injunctive relief, plus appropriate statutory
20 damages.

21 34. Without their knowledge and without receiving notice from Spokeo
22 when their personal information is accessed or purchased, Plaintiff and other Class
23 members' personal information has been and continues to be freely subject to lurking
24 employers (potential and actual), bosses, business colleagues, creditors, insurers,
25 service providers, dating partners, friends and foes at large.

26 **CLASS ACTION ALLEGATIONS**

27 35. Plaintiff brings this action individually and as a class action pursuant to
28 Federal Rule of Civil Procedure 23 on behalf of the following Classes and Subclass

1 of similarly situated individuals:

2 **REPORT CLASS:**

3 All persons whose personal information Spokeo assembled, evaluated,
4 marketed, published, distributed and/or sold on Spokeo.com at any time
5 between five years preceding the filing of this action and the date of trial.

6 **REPORT SUBCLASS:**

7 All persons in the State of Illinois whose personal information Spokeo
8 assembled, evaluated, marketed, published, distributed and/or sold on
9 Spokeo.com at any time between three years preceding the filing of this action
10 and the date of trial.

11 **REQUEST CLASS:**

12 All persons who requested, from Spokeo, disclosure of information in their
13 profile available for purchase on Spokeo.com, any sources of their profile,
14 and/or the identification of any person who purchased their profile, at any time
15 between five years preceding the filing of this lawsuit and the date of trial.¹

16 Excluded from the Class are the Court, Plaintiff's Counsel, and Spokeo, its officers
17 and directors, family and legal representatives, heirs, successors, or assigns and any
18 entity in which Spokeo has or had a controlling interest.

19 36. Plaintiff reserves the right to amend or modify the Class definitions in
20 connection with her motion for class certification and/or the result of discovery.

21 37. As set forth herein, Spokeo has acted and/or refused to act on grounds
22 that apply generally to the class, and has and will continue to market, publish,
23 distribute, and/or sell Plaintiff and other Class members' personal information, so that
24 final injunctive relief or corresponding declaratory relief for the Class is appropriate.

25 38. The Class is so numerous that joinder of all members is impracticable.
26 While the exact number of the Class members is unknown to Plaintiff at this time,
27

28 ¹ Unless otherwise noted, references to the "Class" are to the Classes and Subclass defined above.

1 such information can be easily ascertained through Spokeo's records.

2 39. Plaintiff will fairly and adequately represent and protect the interests of
3 the members of the Class and has retained counsel competent and experienced in
4 complex class actions. Plaintiff has no interest antagonistic to those of the Class.

5 40. Plaintiff's claims are typical of the claims of other Class members. The
6 defenses, if any, that will be asserted against Plaintiff's claims are likely to be typical
7 of the defenses that will be asserted, if any, against other Class member claims.

8 41. Common questions of law or fact exist as to all members of the Class
9 and predominate over questions affecting only individual Class members, including,
10 for example:

- 11 a. Whether Spokeo is a "consumer reporting agency" pursuant to
12 the FCRA;
- 13 b. Whether Spokeo is a "nationwide specialty consumer reporting
14 agency" pursuant to the FRCA;
- 15 c. Whether Spokeo's conduct violates the FCRA as set forth below;
- 16 d. Whether Spokeo was obligated to provide Plaintiff and other
17 members of the Request Class with a copy of their consumer
18 reports in the manner required by the FCRA;
- 19 e. Whether Plaintiff and other Class members are entitled to
20 declaratory and injunctive relief as set forth herein;
- 21 f. Whether Plaintiff and other Class members are entitled to
22 statutory damages under the FCRA; and
- 23 g. Whether Plaintiff and other Class members are entitled to
24 restitution.

25 42. A class action is an appropriate and superior method for fairly and
26 efficiently adjudicating and managing this controversy, and would obviate
27 inconsistent or varying adjudications and standards of conduct affecting individual
28 class members.

CAUSES OF ACTION

43. Plaintiff alleges the following violations, causes of action, and requests for relief and damages below, individually and on behalf of other Class members to the extent permitted or required by applicable law in the alternative.

COUNT ONE

VIOLATIONS OF THE FAIR CREDIT REPORTING ACT

44. Plaintiff repeats and realleges the preceding allegations as if fully set forth herein, and alleges Count One on behalf of herself, the Report Class, and the Request Class.

45. The Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681 *et seq.*, was enacted in order to give consumers fair and equitable protections with regard to the confidentiality, accuracy, and proper use of their consumer information. 15 U.S.C. § 1681.

46. The FCRA defines “consumer report” as “any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer’s eligibility for credit or insurance to be used primarily for personal, family or household purposes; employment purposes; or any other purpose authorized under [15 U.S.C. § 1681b].” 15 U.S.C. § 1681a(d)(1). Spokeo assembles information bearing on credit, personal characteristics and mode of living, including *inter alia* data on “economic health,” “wealth level,” and “estimated home value” which third-party purchasers use to make decisions regarding employment, credit worthiness, and as defined for purposes of a “consumer report.” 15 U.S.C. § 1681a(d)(1). Therefore, the information Spokeo assembles, evaluates, markets, publishes, distributes, and/or sells is a “consumer report” as defined by the FRCA.

47. The FCRA defines “consumer reporting agency” as “any person which,

1 for monetary fees, dues, or on a cooperative nonprofit basis regularly engages in
2 whole or in part in the practice of assembling or evaluating consumer credit
3 information or other information on consumers for the purposes of furnishing
4 consumer reports to third-parties, and which uses any means or facility of interstate
5 commerce for the purpose of preparing or furnishing consumer reports.” 15 U.S.C. §
6 1681a(f). Spokeo assembles consumer reports for third-parties who pay fees or dues
7 to access said credit information and is therefore a “consumer reporting agency” as
8 defined by the FRCA.

9 48. Spokeo further is a “nationwide specialty consumer reporting agency” as
10 defined by the FCRA because it “compiles and maintains files on consumers on a
11 nationwide basis relating to... residential or tenant history” under the “household”
12 subject heading on each consumer report. 15 U.S.C. § 1681a(w)(2).

13 49. The FCRA defines “consumer” as “an individual.” 15 U.S.C. §
14 1681a(c). Plaintiff and other Class members are “consumers” as defined and
15 construed under the FRCA. 15 U.S.C. § 1681a(c).

16 50. 15 U.S.C. § 1681e(a) of the FCRA requires “that prospective users of the
17 information identify themselves, certify the purposes for which the information is
18 sought, and certify that the information will be used for no other purpose” than a
19 purpose listed under Section 1681b. 15 U.S.C. § 1681e(a). Upon information and
20 belief, Spokeo makes Plaintiff and other Report Class member profiles available for
21 sale and viewing, and Spokeo assembles, evaluates, markets, publishes, distributes,
22 and/or sells their profiles, without requiring such certifications. *See, e.g., supra* ¶ 26.

23 51. Spokeo, as a consumer reporting agency that furnishes consumer reports
24 to third-parties, does not properly “maintain reasonable procedures designed to avoid
25 violations of §1681c of this title and to limit the furnishing of consumer reports” of
26 Plaintiff and the Report Class “to the purposes listed under [15 U.S.C. § 1681b],” as
27 required by the FCRA. 15 U.S.C. § 1681e(a). 15 U.S.C. § 1681b of the FCRA sets
28 forth various permissible purposes for the furnishing of consumer reports, which

1 Spokeo does not comply with as set forth above.

2 52. Additionally, pursuant to the FCRA a consumer reporting agency cannot
3 furnish a consumer report to a third-party for employment purposes unless the third-
4 party provides a certification to the consumer reporting agency consistent with 15
5 U.S.C. § 1681b(b)(1)(A). Spokeo knew, continues to know, and/or should know that
6 its consumer reports are being used by third-parties for employment purposes yet
7 Spokeo failed, and continues to fail, to obtain the required certification to ensure that
8 the proper disclosures and written authorization are being obtained from consumers.
9 *See supra* ¶¶ 18-20.

10 53. The FCRA further requires consumer reporting agencies to provide
11 proper notice to any person “to whom a consumer report is provided by the agency ...
12 of such person’s responsibilities under [the FCRA].” 15 U.S.C. § 1681e(d)(1)(B).
13 Spokeo has allowed unfettered access to its consumer reports of Plaintiff and the
14 Report Class and did not provide adequate or required notice to any person who
15 viewed and/or purchased such reports in violation of the FCRA. 15 U.S.C. §
16 1681e(d)(1). Moreover, at relevant times Spokeo’s website did not and/or does not
17 require recipients of freely available consumer reports of Plaintiff and the Report
18 Class (and who also purchase their profiles) to view such a notice; and Spokeo
19 encourages consumer reports to be utilized for purposes prohibited by the FCRA
20 (*e.g.*, ¶¶ 12-15 and 18-20 above), rather than properly warning third-parties against
21 improper use of a consumer report or which is otherwise consistent with Section
22 1681e(d).

23 54. Further, Spokeo, as a nationwide specialty reporting agency, was
24 required, at a minimum, to provide consumers with a toll-free telephone number to
25 make requests for consumer reports. 15 U.S.C. § 1681j(a)(1)(C)(i); 16 C.F.R. Pt.
26 610.3. During relevant times, Spokeo has failed to provide a toll-free telephone
27 number on its website or elsewhere for Plaintiff and other consumers to make
28 requests for consumer reports.

1 55. As a consumer reporting agency, a nationwide consumer reporting
2 agency and a nationwide specialty consumer reporting agency, Spokeo is also
3 required to disclose, free of charge, annual file disclosures and “all information in the
4 consumer’s file” upon the request of the consumer to whom that file relates. *E.g.*, 15
5 U.S.C. §§ 1681j and 1681g(a)(1); 16 C.F.R. §§ 610.2, 610.3. Once every twelve (12)
6 months, a consumer is entitled to request and receive from a CRA a “free annual
7 disclosure,” which shall consist of “all information in the consumer’s file at the time
8 of the request.” 15 U.S.C. §§ 1681g(a), 1681j(a)(1)(C).

9 56. Contrary to the FCRA and such relevant FCRA provisions and
10 regulations, as set forth more fully above, Spokeo has prohibited Plaintiff and other
11 Class members from accessing their own profiles (or their profiles which Spokeo
12 sells to the public) without paying a significant fee – *i.e.* the same fees to access their
13 profiles that any requester would have to pay, and the same fees that Spokeo would
14 charge them when allowing them to easily assess another consumer’s profiles – and
15 likewise Spokeo did not and does not honor requests like Plaintiff’s to view a copy of
16 their own profiles. *E.g.*, 15 U.S.C. §§ 1681j, 1681g(a)(1); 16 C.F.R. §§ 610.2, 610.3.

17 57. Spokeo thus does not provide consumers with a free annual disclosure as
18 required by such FCRA provisions, but rather, blatantly violates the FCRA by
19 misrepresenting, to third-party visitors to its website looking to purchase profiles, that
20 it does not offer consumer reports, and therefore, purports not to be governed or
21 regulated by the FCRA.

22 58. Furthermore, upon request, 15 U.S.C. § 1681g(a)(2) requires Spokeo to
23 disclose to the consumer the sources of information used to create a consumer’s file,
24 and 15 U.S.C § 1681g(a)(3) requires Spokeo to disclose to the consumer the identity
25 of each person that procured a consumer’s report for employment purposes within 2
26 years preceding the date a consumer requests such information or for consumer
27 reports used for any other purpose within 1 year preceding the date a consumer
28 requests said information.

1 59. Despite requests by Plaintiff and other Request Class members, Spokeo
2 has refused to provide them with the sources of information used to create their
3 consumer reports, or with the identities of any person who procured their reports for
4 any purpose within the relevant time period, in violation of the FCRA. *See supra* ¶¶
5 30-31.

6 60. Spokeo has not granted Plaintiff's above-described requests, pursuant to
7 the FCRA, for her information and profiles, the sources of said information, and the
8 identities of persons who have procured their profiles (*see* ¶¶ 30-31 above). Such
9 conduct and practices perpetrated by the Spokeo violates the FCRA, *e.g.*, 15 U.S.C.
10 §§ 1681j and 1681g(a)(1); 16 C.F.R. §§ 610.2, 610.3.

11 61. Spokeo willfully fails to maintain a policy or procedure to grant
12 consumer requests for a copy of their profiles without charge, a list of the sources
13 used to create said profiles, and a list of the identities of any recipients of a
14 consumer's profile. Such conduct is reckless and willful as it clearly violates the
15 FCRA and prevents consumers from seeing what information Spokeo is widely
16 disseminating to employers, creditors, insurers, friends, and foes at large.

17 62. Spokeo is aware of its obligations under the FCRA; Spokeo's website
18 makes cryptic, generalized or buried references to the FCRA which have not been
19 and/or are not viewable at all when furnishing personal information or until after
20 third-parties have already viewed extensive personal information furnished by
21 Spokeo, including inaccurate information, about Plaintiff and other Report Class
22 members. In fact, Spokeo brazenly promotes its website as a means to access
23 information for purposes prohibited by the FCRA, and has failed to meet its
24 obligations under the FCRA, as more fully set forth herein and above (*e.g.*, ¶¶ 9-34).

25 63. Spokeo, by its above-described conduct, has willfully and recklessly
26 failed to comply with the FCRA.

27 64. As a result of Spokeo's above described willful violations of the FCRA,
28 Plaintiff and other Class members were damaged and are entitled to statutory

1 damages as allowed by the FCRA, and/or punitive damages thereon, in addition to
2 attorney's fees and costs. 15 U.S.C. §§ 1681n.

3 65. Alternatively, Spokeo committed the above-described violations of the
4 FCRA negligently, and Plaintiff and other members of the Class are entitled to actual
5 damages, attorney's fees and costs, and appropriate equitable relief as allowed by the
6 FCRA, 15 U.S.C. § 1681o.

7 **COUNT TWO**

8 **RESTITUTION FOR UNJUST ENRICHMENT**

9 66. Plaintiff repeats and realleges the preceding allegations as if fully set
10 forth herein, and alleges Count Two on behalf of herself and the Class.

11 67. Spokeo has knowingly received and retained benefits from Plaintiff and
12 other Class members under circumstances that would render it unjust to allow Spokeo
13 to retain such benefits.

14 68. Spokeo was unjustly enriched at the expense of Plaintiff and other Class
15 members by collecting, assembling, marketing, publishing and/or selling their unique
16 identities and profiles, including false, inaccurate and unverified information, without
17 obtaining their consent, as set forth above.

18 69. Upon information and belief, the sheer number of profiles created and
19 maintained by Spokeo inures to Spokeo's benefit and allows Spokeo to garner
20 increased capital, value, internet visitors, and profits to the detriment of Plaintiff and
21 other Class members.

22 70. Spokeo profits at the expense of Plaintiff and other Class members from
23 the sale of consumer reports in violation of the FCRA.

24 71. Spokeo receives sizable revenues, not only from sales of Spokeo profiles
25 of Plaintiff and other members of the Class, but also from website advertisements
26 attributable to and dependent upon the marketing, sale and dissemination of Plaintiff
27 and other Class member profiles as described above.

28 72. Spokeo's above-described conduct violates fundamental principles of

1 equity and justice.

2 73. As a result, Plaintiff and other Class members are entitled to
3 disgorgement and restitution of Spokeo revenues, profits and monies received from
4 Spokeo's marketing, publication and/or sale of Plaintiff and the Class members'
5 personal information and consumer reports.

6 **COUNT THREE**

7 **INJUNCTIVE RELIEF**

8 **VIOLATION OF THE ILLINOIS DECEPTIVE TRADE PRACTICES ACT**

9 74. Plaintiff repeats and realleges the preceding allegations as if fully set
10 forth herein, and alleges Count Three on behalf of herself and the Report Subclass.

11 75. Spokeo has engaged in and continues to engage in conduct that is
12 deceptive within the meaning of the Illinois Deceptive Trade Practices Act, 815 ILCS
13 § 510/1 *et seq.* ("IDTPA") by causing a "likelihood of confusion or of
14 misunderstanding as to the source, sponsorship, approval, or certification of goods or
15 services." 815 ILCS § 510/2(2). Spokeo engaged in, and continues to engage in,
16 conduct that is deceptive by marketing, publishing and/or selling false or inaccurate
17 information about Plaintiff and other Report Subclass members that is likely to be
18 taken as true.

19 76. Spokeo also engaged in, and continues to engage in, conduct that is
20 deceptive which "similarly creates a likelihood of confusion or misunderstanding" by
21 collecting data about Plaintiff and the Report Subclass from various third-party
22 sources, without authenticating those sources or revealing those sources to third-
23 parties who use its website or to Plaintiff and other Report Subclass members about
24 whom Spokeo continues to make available such profiles, without effectively
25 disclosing the inaccurate nature of such profiles, and by declining to provide Plaintiff
26 and other Report Subclass members with notice that their profiles are being published
27 and made available for sale and/or an opportunity to review their profiles at no
28 charge, as set forth above. IDTPA, 815 ILCS § 510/2(12).

1 77. Spokeo engaged in, and continues to engage in, conduct that is deceptive
2 regardless of whether or not there is “actual confusion or misunderstanding.” *Id.*

3 78. Spokeo engaged in, and continues to engage in, deceptive business
4 practices because it collects, markets, publishes, distributes, and/or sells inaccurate
5 information about Plaintiff and other Report Subclass members with “knowledge of
6 its deceptive character.” IDTPA, 815 ILCS § 510/5(2). For example, Spokeo knows
7 that information it collects, markets, publishes and/or sells is inaccurate, and it knows
8 how to reduce inaccuracies by using an improved algorithm, yet it chooses to market,
9 publish and/or sell profiles with deceptively false information.

10 *E.g.*, [http://newsblogs.chicagotribune.com/the-problem-solver/2010/05/should-i-be-](http://newsblogs.chicagotribune.com/the-problem-solver/2010/05/should-i-be-worried-about-spokeocom.html)
11 [worried-about-spokeocom.html](http://newsblogs.chicagotribune.com/the-problem-solver/2010/05/should-i-be-worried-about-spokeocom.html) (last visited July 29, 2010). Likewise, Spokeo does
12 not at all or adequately advise third-parties, who accessed or may access the profiles
13 and personal information available on Spokeo.com about Plaintiff and other Class
14 members, that such profiles and information are likely to be, and/or may be
15 inaccurate.

16 79. Spokeo represents that the profiles about Plaintiff and the Report
17 Subclass, which Spokeo publishes and sells, is merely a compilation of information
18 from publicly available sources. In reality, the personal information it publishes
19 about them is substantially false, inaccurate, and misleading, and/or appears to be
20 guesswork. *See supra* ¶¶ 17, 22-25.

21 80. Without being enjoined from continuing its conduct, Spokeo will
22 continue to engage in deceptive business practices regardless of “proof of monetary
23 damage, loss of profits or intent to deceive.” 815 ILCS § 510/3. However, the
24 inaccurate profile that Spokeo publishes and distributes about Plaintiff and other
25 members of the Report Subclass is likely to damage, mislead, deceive and misinform
26 third-parties, to their detriment, including without limitation to the detriment of
27 Plaintiff’s professional career.

28 81. Plaintiff and the Report Subclass are entitled to an injunction preventing

1 Spokeo from continuing to market, publish, and/or sell their personal information in
2 the manner set forth above – *i.e.*, laden with false and inaccurate information, in
3 violation of the FCRA, without knowledge, consent of, notice to and/or free access by
4 Plaintiff and the Report Subclass, without adequate notices or procedures to correct
5 and remove inaccuracies, and without proper disclosure to third-parties of inaccuracy
6 likelihood – as well as a declaration of the parties’ rights, and notice to Plaintiff and
7 the Report Subclass regarding same.

8 82. Plaintiff and the Report Subclass are further entitled to injunctive relief
9 which requires Spokeo to provide them with a listing of third-parties to whom
10 Spokeo furnished their profiles, in order to correct the likelihood of confusion or
11 misunderstanding resulting from dissemination of their profiles, including profiles
12 containing false and inaccurate information.

13 **COUNT FOUR**
14 **DECLARATORY JUDGEMENT AND**
15 **CORRESPONDING INJUNCTIVE RELIEF**
16 **28 U.S.C. §§ 2201, 2202**

17 83. Plaintiff repeats and realleges the preceding allegations as if fully set
18 forth herein, and alleges Count Four on behalf of herself and the Class.

19 84. Spokeo’s practice of collecting, assembling, evaluating, marketing,
20 publishing, distributing and/or selling data including credit information concerning
21 Plaintiff and other Class members constitutes a “consumer report” within the
22 meaning of the FCRA as described above. 15 U.S.C. § 1681a(d)(1).

23 85. Spokeo’s practice of collecting, assembling, evaluating, marketing,
24 publishing, distributing, and/or selling consumer reports for third-parties who pay a
25 fee to access said credit information deems Spokeo a “consumer reporting agency” as
26 defined by the FCRA as described above. 15 U.S.C. § 1681a(f).

27 86. Spokeo further is a “nationwide specialty consumer reporting agency” as
28 defined by the FCRA because it “compiles and maintains files on consumers on a

1 nationwide basis relating to... residential or tenant history” under the “household”
2 subject heading of its website. 15 U.S.C. § 1681a(w)(2).

3 87. The FCRA defines “consumer” as “an individual.” 15 U.S.C. §
4 1681a(c). Plaintiff and other Class members are “consumers” as defined and
5 construed under the FCRA. *Id.*

6 88. Plaintiff and the Class are entitled to a declaration of the parties’ rights
7 and Spokeo’s obligations pursuant to the FCRA, including whether Spokeo’s conduct
8 violates the FCRA as more fully set forth above.

9 89. Plaintiff and the Report Subclass are also entitled to a declaration of the
10 parties’ rights under the IDTPA, including whether or not Spokeo’s above-described
11 conduct is deceptive within the meaning of the IDTPA.

12 90. Plaintiff and other Class members and Spokeo have adverse legal
13 interests, and there is a substantial controversy between Plaintiff and other Class
14 members, and Spokeo, to warrant the issuance of a declaratory judgment as to
15 whether Spokeo’s mass marketing, publication and/or sale of consumer reports about
16 Plaintiff and the Class violates the FCRA and the IDTPA, and the common law of
17 unjust enrichment.

18 91. As a result of Spokeo’s above-described conduct, Plaintiff and the Class
19 are entitled to corresponding injunctive relief, including, for example, an order
20 enjoining Spokeo from continuing to force consumers to pay money in order to
21 access their own profiles; and an order enjoining Spokeo from continuing to dishonor
22 consumer requests to view their own profiles and related information, as set forth
23 above, and/or requiring Spokeo to enact corresponding curative relief.

24 92. Further, Plaintiff and the Class are entitled to corresponding injunctive
25 relief, including an order enjoining Spokeo from continuing to collect, assemble,
26 evaluate, market, publish, distribute and/or sell their personal information in violation
27 of applicable law, as more fully set forth above; and an order establishing a
28 constructive trust, for the benefit of Plaintiff and the Class, consisting of monies

1 received by Spokeo from its wrongful marketing, publication, dissemination and/or
2 sale of their purported personal information.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff, individually and on behalf of all others similarly
5 situated, prays that this Honorable Court enter judgment in favor of Plaintiff and
6 against Spokeo as follows:

- 7 a. Find that Spokeo violated, FCRA, the IDTPA, and the common law as
8 described above;
- 9 b. Declare the rights of the parties, and enjoin Spokeo's above-described
10 illicit conduct, as set forth above;
- 11 c. Award injunctive relief, including, without limitation, an order enjoining
12 Spokeo requiring consumers to pay to view their own respective profiles,
13 consistent with Plaintiff's allegations set forth in detail above;
- 14 d. Award Plaintiff and other Class members statutory and/or punitive
15 damages, and other relief to which Plaintiff and the Class are entitled, as
16 permitted by applicable law; an alternatively award relief in the form of
17 actual damages.
- 18 e. Award equitable monetary relief such as restitution to Plaintiff and other
19 members of the Class, require Spokeo to disgorge, for the benefit of
20 Plaintiff and the Class, monies, revenues and profits Spokeo received
21 from its marketing, publication and/or sale of their profiles and personal
22 information as set forth above; and establish a constructive trust, until
23 further order of the Court, consisting of monies Spokeo improperly
24 collected or received from its above-described illicit conduct;
- 25 f. Find that this case may be properly maintained as a class action, and
26 appoint Plaintiff as Class representative and Plaintiff's counsel as Class
27 counsel;
- 28 g. Award reasonable attorney's fees and costs as allowed under the FCRA,

1 the IDTPA and applicable law; and

2 h. Award such other further relief as the Court deems just and appropriate.

3
4 Respectfully submitted,

5 Dated: September 9, 2011

PARISI & HAVENS LLP

6
7 By: 

8 David C. Parisi
9 Suzanne Havens Beckman
10 Azita Moradmand
11 Attorneys for JENNIFER
12 PURCELL, individually and on
13 behalf of all others similarly
14 situated
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JURY DEMAND

Plaintiff requests trial by jury of all claims that can be so tried.

Respectfully submitted,

Dated: September 9, 2011

PARISI & HAVENS LLP

By: 

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